

REMARKS

The present application was filed on June 24, 2003 with claims 1-23. Claims 24 and 25 were added by a prior amendment. Claims 1 through 25 are presently pending in the above-identified patent application. Independent claims 1, 12, 18 and 19 are proposed to be amended herein.

Applicants submit that the finality of the present Office Action is improper. This is the first time the Examiner has raised this particular Section 112, second paragraph, rejection and the first time the Examiner has raised the Section 101 rejection. Neither of these rejections were prompted by an amendment made by Applicants.

This amendment is submitted pursuant to 37 CFR §1.116 and should be entered. The Amendment places all of the pending claims, i.e., claims 1-11, in a form that is believed allowable, and, in any event, in a better form for appeal. It is believed that examination of the pending claims as amended, which are consistent with the previous record herein, will not place any substantial burden on the Examiner. Applicants note that the Examiner has already considered this precise amended limitation in the original Office Action.

In the Office Action, the Examiner rejected claims 1-25 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. In addition, claim 18 was rejected under 35 U.S.C. §101 because the claim is directed to non-statutory subject matter.

Section 112 Rejection

Independent claims 1, 12, 18 and 19 all contain the same limitation “monitoring a textual entry of said spoken words.” The Examiner asserts that this limitation is unclear. Each independent claim has been amended to replace the “monitoring” terminology by expressly stating that a textual entry of the spoken words is obtained from a call agent. The amendment is supported, for example, by Figure 2, and the corresponding text that illustrates an exemplary graphical user interface 200 that may be employed by a call center agent to enter information *obtained* from the caller 110.

Applicants respectfully request withdrawal of the Section 112 Rejection.

Section 101 Rejection

Claim 18 was rejected under 35 U.S.C. §101 because the claim is directed to non-statutory subject matter. The Examiner asserts that an Article of Manufacture does not fall within at least one of the four categories of patentable subject matter recited in Section 101. An Article of Manufacture, however, is a well-recognized “composition of matter.”

The Examiner asserts that the invention is not directed to a practical application of a judicial exception (“e.g., because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete and tangible result”).

Physical Transformation

The Supreme Court has stated that the “[t]ransformation and reduction of an article 'to a different state or thing' is the clue to patentability of a process claim.” *Gottshalk v. Benson*, 409 U.S. 63, 70, 175 U.S.P.Q. (BNA) 676 (1972). In other words, claims that require some kind of transformation of subject matter, which has been held to include intangible subject matter, such as data or signals, that are representative of or constitute physical activity or objects have been held to comply with Section 101. See, for example, *In re Warmerdam*, 31 U.S.P.Q.2d (BNA) 1754, 1759 n.5 (Fed. Cir. 1994) or *In re Schrader*, 22 F.3d 290, 295, 30 U.S.P.Q.2d (BNA) 1455, 1459 n.12 (Fed. Cir. 1994).

Claim 18 expressly recites the step of “**converting** said spoken words to text using a speech recognition technique to generate converted text.” The word “converting” explicitly conveys a transformation from one form to another (in this case, spoken words to converted text). The generated converted text is then used to confirm an accuracy of the textual entry substantially during said telephone call.

Useful, Concrete and Tangible Result

Claim 18 expressly recites a “useful, concrete and tangible result” by providing a confirmation of an accuracy of the textual entry of spoken words.

Applicants submit that claim 18 is in full compliance with 35 U.S.C. §101, and accordingly, respectfully requests that the rejection under 35 U.S.C. §101 be withdrawn.

Dependent Claims

Dependent claims 2-11, 13-17 and 20-25 were rejected under Section 112, second paragraph. Claims 2-11, 13-17 and 20-25 are dependent on claims 1, 12 and 19, respectively, and are therefore patentable because of their dependency from amended independent claims 1, 12 and 19 for the reasons set forth above, as well as other elements these claims add in combination to their base claim.

All of the pending claims, i.e., claims 1 through 25, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

The Examiner's attention to this matter is appreciated.

Respectfully submitted,



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